

IN THE UNITED DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JESSICA TISCHER, :
individually and as :
Personal Representative :
For the Spouse and :
Children of JACOB TISCHER, :
Decedent, :

COPY

Plaintiff,

vs. Stephen L. Crocker

UNION PACIFIC RAILROAD
COMPANY, a Delaware
corporation,

Defendant.

UNION PACIFIC RAILROAD
COMPANY.

Third-Party Plaintiff,

V.

PROFESSIONAL
TRANSPORTATION, INC.

Third-Party Defendant.

24

25 MELISSA A. BURNS - CERTIFIED SHORTHAND REPORTER

JESSICA TISCHER vs UNION PACIFIC RAILROAD
 JESSICA CARSON 09/24/2019

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1	APPEARANCES:	P R O C E E D I N G S
2	For the Plaintiff:	(Deposition Exhibits 16 through 21 were
3	PAUL A. BANKER, ESQ. (Appearing via RingCentral Videoconference)	marked for identification.)
4	Hunegs, LeNeave & Kvas, PA 1000 Twelve Oaks Center Drive	THE VIDEOGRAPHER: On the record beginning
5	Suite 101 Wayzata, MN 55391	the video deposition of Jessica Carson requested by
6	For Defendant Union Pacific Railroad Company:	the plaintiff in the matter of Jessica Tischer,
7	THOMAS A.P. HAYDEN, ESQ. Union Pacific Railroad Corporation 101 North Wacker Drive Room 1920 Chicago, IL 60606	et al., Plaintiffs versus Union Pacific Railroad
8	For Third-Party Defendant Professional Transportation	Company, Defendant, in the United States District
9	Corporation:	Court for the Western District of Wisconsin, Case
10	MICHAEL B. COHEN, ESQ. (Appearing via RingCentral videoconference)	No. 3:19-cv-00166.
11	Quintairos, Prieto, Wood & Boyer, PA 233 South Wacker Drive 70th Floor Chicago, IL 60606	Today's date is September 24, 2019, and the
12	Also Present:	approximate time is 10:10 a.m.
13	JESSICA TISCHER (Present via RingCentral videoconference)	This deposition is being held in the
14	Videographer: AMY COOPER, CLVS	offices of Susan Frye Court Reporting, 300 Walnut
15		Street, Des Moines, Iowa.
16		My name is Amy Cooper, Certified Legal
17		Videographer, of Fidelity Video Services,
18		Incorporated, West Des Moines, Iowa.
19		Counsel will please identify themselves for
20		the record.
21		MR. BANKER: Paul Banker, B-a-n-k-e-r, for
22		the plaintiff.
23		MR. HAYDEN: Thomas Hayden, H-a-y-d-e-n,
24		for Defendant Union Pacific.
25		THE VIDEOGRAPHER: The oath will now --
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1	I N D E X	
2	WITNESS: JESSICA CARSON	PAGE
3	By Mr. Banker.....	5
4	By Mr. Cohen.....	57
5	By Mr. Hayden.....	62
6	EXHIBITS: MARKED/FIRST REFERENCED	
7	16 - Various emails sent on 8-14-17 (UP001046	
8	through UP001053)	4,35
9	17 - Email chain beginning with Carson to	
10	TCSU Manager Contacts, 8-14-17 (UP001089	
11	through UP001090)	4,46
12	18 - Communication sent through MyUP from	
13	Carson, 8-14 (UP001022 through UP001023)	4,46
14	19 - List of UP stroke events	
15	(UP001306/UP001469)	4,49
16	20 - Union Pacific Railroad Company's	
17	Supplemental Rule 26(a)(1) Disclosure.....	4,50
18	21 - Selected screen shots from BasicPlus DVD....	4,52
19	REPORTER'S NOTE: ALL ORIGINAL EXHIBITS WERE RETURNED	
20	TO PAUL A. BANKER, ESQ.	
21		BY MR. BANKER:
22		Q. Good morning, Ms. Carson.
23		A. Good morning.
24		Q. Could you please state your name for the
25		record?
		A. Jessica Carson.
		Q. Ms. Carson, have you ever had your
		deposition taken before?
		A. No.
		Q. Okay. Let me just go over a couple of
		ground rules for what we're going to be doing today

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<p>1 just so we are clear about the process.</p> <p>2 The court reporter -- both the videographer</p> <p>3 and the stenographer are taking down everything that</p> <p>4 gets said here. And so as I ask questions, it's</p> <p>5 important that you answer audibly with words as</p> <p>6 opposed to nodding your head or saying uh-huh or</p> <p>7 huh-uh. Because if you do that, we're aren't going to</p> <p>8 get a clear record.</p> <p>9 Do you understand?</p> <p>10 A. I do.</p> <p>11 Q. Okay. Also, it's important that we don't</p> <p>12 talk over one another as this deposition takes place.</p> <p>13 And that's even compounded a little bit, because as we</p> <p>14 talked about before the deposition began, I'm on the</p> <p>15 telephone and through a video link here and there's a</p> <p>16 little bit of a delay.</p> <p>17 But I'll make an effort to clearly finish</p> <p>18 my questions and then pause for you to give an answer,</p> <p>19 and if you could do the same, that will help us to get</p> <p>20 a clear record.</p> <p>21 Okay?</p> <p>22 A. Okay.</p> <p>23 Q. If at some point I ask a question, feel</p> <p>24 free -- and you don't understand it, feel free to ask</p> <p>25 me for clarification and I'll do what I can to clarify</p>	<p>1 A. Correct.</p> <p>2 Q. Okay. So other than your conversation with</p> <p>3 Mr. Hayden, did you have any conversations with anyone</p> <p>4 else to prepare for this deposition?</p> <p>5 A. No.</p> <p>6 Q. Did you review any documents in preparation</p> <p>7 for this deposition?</p> <p>8 A. With Tom prior, yes.</p> <p>9 Q. What documents did you review?</p> <p>10 A. An email and a first aid book.</p> <p>11 Q. Okay. Anything else that you reviewed?</p> <p>12 A. Not that I remember.</p> <p>13 Q. Okay. Do you have any documents pertaining</p> <p>14 to the Tischer v. UP lawsuit?</p> <p>15 A. No.</p> <p>16 Q. Let me just get a little bit -- switch</p> <p>17 gears here and get a little bit of background</p> <p>18 information on you.</p> <p>19 Where do you currently live?</p> <p>20 A. Osage, Iowa.</p> <p>21 Q. And what is the address there?</p> <p>22 A. 902 State Street.</p> <p>23 Q. And how long have you lived there?</p> <p>24 A. Roughly two years.</p> <p>25 Q. Do you have any plans to move in the next</p>
Page 7	Page 9
<p>1 it.</p> <p>2 If you don't do that, I'm going to assume</p> <p>3 that you've understood the question and are able to</p> <p>4 answer.</p> <p>5 Is that a fair assumption?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And if at any point today you need</p> <p>8 to take a break, let me know and we'll see what we can</p> <p>9 do to accommodate that.</p> <p>10 Okay?</p> <p>11 A. Okay.</p> <p>12 Q. And I should add as a further caveat, if at</p> <p>13 any point either the video or the audio kind of goes</p> <p>14 haywire and you're not able to hear me or understand</p> <p>15 me, let me know and we'll see what we can do to fix</p> <p>16 that.</p> <p>17 A. Okay.</p> <p>18 Q. Great.</p> <p>19 So what, if anything, did you do to prepare</p> <p>20 for your deposition today?</p> <p>21 A. A short conversation just before we came</p> <p>22 here.</p> <p>23 Q. A conversation with who?</p> <p>24 A. With Tom.</p> <p>25 Q. Okay. Mr. Hayden?</p>	<p>1 12 months?</p> <p>2 A. Not that I know of.</p> <p>3 Q. Okay. Do you live with anyone at that</p> <p>4 address?</p> <p>5 A. Yes.</p> <p>6 Q. Who?</p> <p>7 MR. HAYDEN: Relevance. I'm not sure what</p> <p>8 that -- what that makes -- how that makes a</p> <p>9 difference. We'll accept service of any subpoena or</p> <p>10 any notice for her to appear at trial.</p> <p>11 MR. BANKER: Sure.</p> <p>12 BY MR. BANKER:</p> <p>13 Q. And I'm just wondering who do you live with</p> <p>14 at that address?</p> <p>15 MR. HAYDEN: It doesn't matter who she</p> <p>16 lives with at that address.</p> <p>17 MR. BANKER: And that's not a proper</p> <p>18 objection. So if the witness could answer my question</p> <p>19 without interruption for improper relevance</p> <p>20 objections, that would be great.</p> <p>21 MR. HAYDEN: It's not probative of any</p> <p>22 issue in the case.</p> <p>23 MR. BANKER: You've made your objection.</p> <p>24 So if the witness could answer my question, that would</p> <p>25 be great.</p>

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1	MR. HAYDEN: Go ahead.	
2	A. Two children.	
3	BY MR. BANKER:	
4	Q. And how old are they?	
5	MR. HAYDEN: Same objection. Move on. I'm	
6	instructing the witness not to answer. It's invading	
7	her privacy. It's completely irrelevant as to what	
8	the ages of her children are in this lawsuit.	
9	Please continue.	
10	MR. BANKER: Well, I'm trying to determine	
11	what ability, if any, I would have to serve a subpoena	
12	in this case if I need to.	
13	MR. HAYDEN: I just said we'll accept	
14	service of subpoena, send it to me. I just said that.	
15	MR. BANKER: Right. And that's new	
16	information that I'm hearing for the first time. So	
17	I'd like to know in case you change your mind --	
18	MR. HAYDEN: You're going to -- move on.	
19	She's not answering the question. I understand now	
20	why you're asking the question. I've cured it. So	
21	let's move on.	
22	BY MR. BANKER:	
23	Q. The children that you live with, I take it,	
24	are under the age of 18?	
25	A. Yes.	
	Page 11	Page 13
1	Q. Okay. Are you a high school graduate?	
2	A. Yes.	
3	Q. When did you graduate?	
4	A. 2000.	
5	Q. And do you have any education post high	
6	school?	
7	A. I do.	
8	Q. Where -- what, if any, post high school	
9	education do you have?	
10	A. An associate's degree.	
11	Q. From where?	
12	A. NIACC. North Iowa Area Community College.	
13	Q. And what is your degree?	
14	A. Nursing.	
15	Q. Was that a two-year degree?	
16	A. Yes.	
17	Q. And do you have any further formal	
18	education since then?	
19	A. Yes.	
20	Q. What?	
21	A. Several classes towards my BSN.	
22	Q. Towards your what?	
23	A. Bachelor of nursing sciences.	
24	Q. Bachelor of nursing sciences? Okay. And	
25	where are you taking those classes?	
		with the State?
		A. An exam through the State.
		Q. Okay. And then is there continuing
		education that you have to do periodically for that?
		A. Yes.
		Q. And you're current with that?
		A. Yes.
		Q. How often do you have to renew your license
		or recertify with the State?
		A. It depends on what you purchased.
		Q. Okay. Have you maintained your RN
		certification in the State of Iowa continuously since
		2009?
		A. Yes.
		Q. Are you currently employed?
		A. Yes.
		Q. Who are you employed by?
		A. Union Pacific.
		Q. And what do you do for Union Pacific?
		A. I am an occupational health nurse.
		Q. And where or what physical location for UP
		do you work at?
		A. I have an office in Mason City.
		Q. How long have you been an occupational
		health nurse for UP?

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<p style="text-align: right;">Page 14</p> <p>1 A. Roughly two and a half years.</p> <p>2 Q. What does an occupational health nurse do</p> <p>3 for UP?</p> <p>4 A. Wellness education, health promotion,</p> <p>5 injury response.</p> <p>6 Q. Who is your supervisor at UP?</p> <p>7 A. Marcy Zauha.</p> <p>8 Q. How do you spell her last name?</p> <p>9 A. Z-a-u-h-a.</p> <p>10 Q. What did you -- I guess I asked how long</p> <p>11 you had been an occupational health nurse, 2.5 years.</p> <p>12 What did you do before that?</p> <p>13 A. Occupational nursing.</p> <p>14 Q. For UP?</p> <p>15 A. For a different company.</p> <p>16 Q. Okay. What was the company you worked at</p> <p>17 before you worked for UP?</p> <p>18 A. A10 Clinical Services.</p> <p>19 Q. So do you recall when it was that you</p> <p>20 first -- the dates that you first began working for</p> <p>21 UP?</p> <p>22 A. Not exactly.</p> <p>23 Q. Would it have been in 2017?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. What sorts of things did you do for</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. And what were you doing for them?</p> <p>2 A. Director of nursing, director of nursing</p> <p>3 therapies, and floor RN.</p> <p>4 Q. And how long did you do that job?</p> <p>5 A. One year.</p> <p>6 Q. And does that take us back to when you got</p> <p>7 your RN certification?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. So I represent Jessica Tischer in a</p> <p>10 lawsuit brought as the representative of the Estate of</p> <p>11 Jacob Tischer who was a UP employee who had a stroke</p> <p>12 on August 12, 2017.</p> <p>13 Prior to August 12, 2017, did you know</p> <p>14 Jacob Tischer at all?</p> <p>15 A. No.</p> <p>16 Q. So how did you first learn that there had</p> <p>17 been an incident involving Jacob Tischer on August 12,</p> <p>18 2017?</p> <p>19 A. Management reached out to me.</p> <p>20 Q. Who in management reached out to you?</p> <p>21 A. Erik Erickson.</p> <p>22 Q. And who is Erik Erickson?</p> <p>23 A. He was the superintendent.</p> <p>24 Q. Did you know Erik Erickson before he</p> <p>25 reached out to you?</p>
<p style="text-align: right;">Page 15</p> <p>1 A10 Clinical Services as an occupational nurse?</p> <p>2 A. The same things I listed previously.</p> <p>3 Q. How long did you do that job?</p> <p>4 A. Roughly three years.</p> <p>5 Q. And where did you work before that?</p> <p>6 A. Mitchell County Regional Health Center.</p> <p>7 Q. And what did you do there?</p> <p>8 A. ER charge nurse and med/surg charge nurse.</p> <p>9 Q. So you were working as an RN for them.</p> <p>10 A. Yes.</p> <p>11 Q. Other than the time you've worked as an</p> <p>12 occupational health nurse for UP and as an</p> <p>13 occupational nurse for A10 Clinical Services, do you</p> <p>14 have any other experience as an occupational health</p> <p>15 nurse?</p> <p>16 A. No.</p> <p>17 Q. How long did you work as an ER charge nurse</p> <p>18 for the County?</p> <p>19 A. Four years. Roughly.</p> <p>20 Q. And does that take us back to when you got</p> <p>21 your registered nurse certification in 2009?</p> <p>22 A. No.</p> <p>23 Q. So where did you work before you worked at</p> <p>24 the County?</p> <p>25 A. Osage Rehab.</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Yes.</p> <p>2 Q. How did you know Erik Erickson?</p> <p>3 A. We worked on the same service unit.</p> <p>4 Q. Okay. What service unit were you working</p> <p>5 on at the time?</p> <p>6 A. The Twin Cities Service Unit.</p> <p>7 Q. And is that abbreviated TCSU?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. So when Mr. Erickson reached out to</p> <p>10 you, how did he reach out to you?</p> <p>11 A. By phone.</p> <p>12 Q. And what did he tell you?</p> <p>13 A. That there was a medical event in Altoona</p> <p>14 and that a young employee had symptoms of a stroke and</p> <p>15 that the manager had recognized those symptoms and</p> <p>16 called 9-1-1 right away.</p> <p>17 Q. When did this phone call between you and</p> <p>18 Mr. Erickson take place relative to August 12, 2017?</p> <p>19 A. I don't recall.</p> <p>20 Q. And I guess what I'm looking for is was it</p> <p>21 something where you were on call that night as it was</p> <p>22 happening? Would it have been the next day or within</p> <p>23 a day or two?</p> <p>24 A. Within a day or two.</p> <p>25 Q. Did you make any notes of that</p>

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<p>1 conversation?</p> <p>2 A. How do you mean?</p> <p>3 Q. Did you make any handwritten notes of what</p> <p>4 was discussed during that conversation?</p> <p>5 A. Not that I recall.</p> <p>6 Q. Did you make any electronic notes of what</p> <p>7 was said during that conversation?</p> <p>8 A. Not dictating the conversation, no.</p> <p>9 Q. How about just any of the things that were</p> <p>10 discussed or takeaways from the conversation.</p> <p>11 A. Yes.</p> <p>12 Q. Where were those notes made?</p> <p>13 A. Electronically.</p> <p>14 Q. And is there a particular system that you</p> <p>15 use for electronic notes?</p> <p>16 A. There are.</p> <p>17 Q. So what system were you using to make these</p> <p>18 notes?</p> <p>19 A. MyUP.</p> <p>20 Q. MyUP? Like M-y-U-P?</p> <p>21 A. Correct.</p> <p>22 Q. And what is M-y-U-P?</p> <p>23 A. A communication system.</p> <p>24 Q. Is it something that you use regularly in</p> <p>25 the course of your job?</p>	<p>Page 18</p> <p>1 BY MR. BANKER:</p> <p>2 Q. Let me try again. When you received the</p> <p>3 communication from Mr. Erickson, what was your</p> <p>4 understanding about why it was that he was notifying</p> <p>5 you?</p> <p>6 MR. HAYDEN: If you know.</p> <p>7 A. That a traumatic event had occurred.</p> <p>8 BY MR. BANKER:</p> <p>9 Q. But were you receiving those notifications</p> <p>10 for any sort of traumatic event on the Twin Cities</p> <p>11 Service Unit at that time?</p> <p>12 A. Can you say that again?</p> <p>13 Q. Yes. Were you receiving notifications of</p> <p>14 traumatic events on the Twin Cities Service Unit at</p> <p>15 that time?</p> <p>16 A. Generally.</p> <p>17 Q. Okay. And what then would you do with that</p> <p>18 information? Other than go to MyUP.</p> <p>19 A. It would be based on the situation.</p> <p>20 Q. Okay. What was your usual practice?</p> <p>21 A. Again, based on the situation.</p> <p>22 Q. Okay. So let's focus on the Jacob Tischer</p> <p>23 situation. Other than going to the MyUP portal and</p> <p>24 providing some broad communication, did you do</p> <p>25 anything else as a result of Mr. Erickson's call to</p>
<p>Page 19</p> <p>1 A. Yes.</p> <p>2 Q. What were you -- so were you making notes</p> <p>3 under a Jacob Tischer file or how were you making</p> <p>4 notes in the MyUP system?</p> <p>5 A. A broad communication.</p> <p>6 Q. A broad communication to whom?</p> <p>7 A. People on the service unit.</p> <p>8 Q. So after you talked with Mr. Erickson, you</p> <p>9 went into the MyUP tool and made some further</p> <p>10 communications to the Twin Cities Service Unit?</p> <p>11 A. Correct.</p> <p>12 Q. And is that -- does that take the form</p> <p>13 ultimately of an email or what form does that</p> <p>14 communication take?</p> <p>15 A. Essentially.</p> <p>16 Q. Okay. Do you know why Mr. Erickson was</p> <p>17 contacting you in the first place?</p> <p>18 A. To notify me that a medical event had</p> <p>19 occurred.</p> <p>20 Q. Is that something that was part of your</p> <p>21 portfolio of responsibilities on August 12, 2017?</p> <p>22 MR. HAYDEN: Objection. Form and</p> <p>23 foundation. She's testified she wasn't notified on</p> <p>24 the 12th.</p> <p>25</p>	<p>Page 21</p> <p>1 you?</p> <p>2 A. Yes.</p> <p>3 Q. What did you do?</p> <p>4 A. I believe there was some administrative</p> <p>5 function to -- that it was an event within the</p> <p>6 company.</p> <p>7 Q. What administrative functions were there?</p> <p>8 Could you explain that?</p> <p>9 A. Recording what status the employee should</p> <p>10 be in.</p> <p>11 Q. And what do you mean by "what status the</p> <p>12 employee should be in"? What are the possible</p> <p>13 statuses?</p> <p>14 A. Medical leave, light duty, reportable</p> <p>15 health condition would be some examples.</p> <p>16 Q. What status did Mr. Tischer go into as a</p> <p>17 result of Erik Erickson's call to you?</p> <p>18 A. Medical leave.</p> <p>19 Q. What is the administrative significance, in</p> <p>20 your mind, of medical leave? What does that mean</p> <p>21 exactly?</p> <p>22 A. They are off of work due to medical</p> <p>23 reasons.</p> <p>24 Q. And is that something that you changed the</p> <p>25 status in the computer system?</p>

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1 A. I did not.		1 Q. How did you happen to be talking to Neil?
2 Q. Would you ask someone else to?		2 A. I was at the depot.
3 A. Yes.		3 Q. So you were talking face-to-face with Neil
4 Q. So in the case of Mr. Tischer, who did you		4 at the depot?
5 communicate with about changing his status to medical		5 A. Correct.
6 leave?		6 Q. In Altoona.
7 A. There -- the fit-for-duty nurse.		7 A. Correct.
8 Q. Who was the fit-for-duty nurse on or about		8 Q. And do you remember anything of the
9 August 12, 2017, for the Twin Cities Service Unit?		9 specifics of that conversation?
10 A. I believe Lisa Tracey.		10 A. Yes.
11 Q. Okay. Did you do anything else other than		11 Q. What do you recall?
12 what you've described as a result of your call from		12 A. He described the situation somewhat in that
13 Erik Erickson about Mr. Tischer's incident?		13 the employee had some generic-type symptoms, and
14 A. Not that I recall.		14 mainly that the employee -- he noticed that the
15 Q. Okay. Did you ever receive any more		15 employee was "off a little" is how he characterized
16 information about the incident other than what		16 it. And --
17 Mr. Erickson communicated to you in that call?		17 Q. Okay.
18 A. Can you clarify that?		18 A. -- that he felt the manager was -- he
19 Q. Sure. So if I'm understanding what you're		19 characterized that the manager was not a good manager.
20 saying, the first you heard that there had been an		20 Q. And did he tell you who that manager was?
21 incident was when Mr. Erickson called you.		21 A. Marvin.
22 Correct?		22 Q. Do you know a manager Marvin?
23 A. Yes.		23 A. I do.
24 Q. And then did you have any more information		24 Q. Is his first name Mark?
25 come to you about the incident other than what		25 A. Yes.
Page 23		Page 25
1 Mr. Erickson told you?		1 Q. And -- well, let me go back.
2 A. Yes.		2 Did he say any -- you were kind of going
3 Q. And where did that information come from?		3 through the specifics of what Mr. Franchuk said and I
4 A. An employee.		4 somewhat interrupted you.
5 Q. Who was that employee?		5 So did Mr. Franchuk say anything else to
6 A. Neil. And I don't remember his last name.		6 you?
7 Q. Neil Franchuk perhaps?		7 A. Yes.
8 A. Possibly.		8 Q. What did he say?
9 Q. Okay. What information did you learn from		9 A. That the employee didn't feel well but
10 the employee Neil about Mr. Tischer's incident?		10 wanted to continue working.
11 A. He was -- that he had interaction with the		11 Q. Okay. Did Mr. Franchuk say anything else?
12 employee at the time -- or on the day that this had		12 A. Yes.
13 happened.		13 Q. What else did he say?
14 Q. Okay. Let me just back up a step.		14 A. That he eventually had stroke-like
15 When did you have this conversation with		15 symptoms.
16 the employee Neil?		16 Q. Did he say anything else?
17 A. Earlier part of summer of this year.		17 A. Yes.
18 Q. The summer of 2019.		18 Q. What else did he say?
19 A. I believe so.		19 A. That he had accused Marvin of not
20 Q. How was it that you were talking with the		20 responding appropriately.
21 employee Neil in the summer of 2019 about an incident		21 Q. Okay. Did Mr. Franchuk say anything else?
22 that happened in 2017?		22 A. Not that I can recall.
23 A. He brought it up.		23 Q. Okay. What was Mr. Franchuk's demeanor
24 Q. Neil brought it up.		24 during this conversation with you?
25 A. Correct.		25 A. How do you mean?

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<p style="text-align: right;">Page 26</p> <p>1 Q. Oh. How do I mean? Like how was he 2 behaving. Was he calm? Was he agitated? Was he 3 happy? Was he sad?</p> <p>4 A. Agitated.</p> <p>5 Q. Okay. When you say "agitated," what do you 6 mean by "agitated"?</p> <p>7 A. He had concern about the situation.</p> <p>8 Q. What you have previously described to me as 9 the specifics of what he said?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. So he had concerns. Was there 12 anything else that he was doing that made you believe 13 he was agitated?</p> <p>14 A. Not that I can recall.</p> <p>15 Q. Okay. What was his tone of voice? Was he 16 talking in a normal tone of voice? Was he yelling? 17 Was he being unusually quiet?</p> <p>18 A. I would say his tone was elevated slightly 19 and aggressive.</p> <p>20 THE REPORTER: I'm sorry?</p> <p>21 THE WITNESS: Elevated slightly and 22 aggressive.</p> <p>23 BY MR. BANKER:</p> <p>24 Q. Was Mr. --</p> <p>25 MR. BANKER: I'm sorry, there were two</p>	<p style="text-align: right;">Page 28</p> <p>1 Was there anything more said by you in 2 response to that?</p> <p>3 A. Not in response to that, no.</p> <p>4 Q. Okay. What else do you recall saying to 5 Mr. Franchuk as part of that conversation at the 6 Altoona Depot in the summer of 2019?</p> <p>7 A. I don't recall.</p> <p>8 Q. Okay. So he said the things -- the 9 specific things that you've described and you recall 10 asking him the question why didn't he call for help 11 and we've exhausted your recollection of that 12 conversation.</p> <p>13 A. That portion, yes.</p> <p>14 Q. Okay. Was there another portion of the 15 conversation that you're referring to?</p> <p>16 A. Yes.</p> <p>17 Q. Tell me about that.</p> <p>18 A. I asked why the employee -- if he was 19 feeling "off" and feeling ill, why he had come to 20 work.</p> <p>21 Q. You asked that of Mr. Franchuk?</p> <p>22 A. Correct.</p> <p>23 Q. And did Mr. Franchuk respond?</p> <p>24 A. Yes.</p> <p>25 Q. What did he say?</p>
<p style="text-align: right;">Page 27</p> <p>1 people talking there. I didn't hear that.</p> <p>2 MR. HAYDEN: She was repeating her answer 3 to the court reporter.</p> <p>4 MR. BANKER: Okay.</p> <p>5 BY MR. BANKER:</p> <p>6 Q. So let me go back to the top of that 7 conversation.</p> <p>8 So you're having a conversation with 9 Mr. Franchuk at the Altoona terminal in the summer of 10 2019 and he's telling you these specific things.</p> <p>11 What, if anything, did you say to him?</p> <p>12 A. I asked if he had -- I asked if he 13 recognized that his friend was "off," why he didn't 14 call for help.</p> <p>15 Q. Okay. Did Mr. Franchuk respond to that 16 question?</p> <p>17 A. He did.</p> <p>18 Q. What did he say?</p> <p>19 A. He said it was the manager's job to do 20 that.</p> <p>21 Q. Did you respond in any way?</p> <p>22 A. How do you mean?</p> <p>23 Q. Well, so you asked him a question, why 24 didn't he call for help, and he said it was the 25 manager's job to do that.</p>	<p style="text-align: right;">Page 29</p> <p>1 A. The employee was a very studious worker.</p> <p>2 Q. Did you make any response after 3 Mr. Franchuk said that?</p> <p>4 A. No.</p> <p>5 Q. Was there any more to the conversation 6 between you and Mr. Franchuk?</p> <p>7 A. Yeah. He mentioned that he had 8 conversation with Erik Erickson.</p> <p>9 Q. Mr. Franchuk mentioned that.</p> <p>10 A. Correct.</p> <p>11 Q. And what did he tell you about a 12 conversation with Mr. Erickson?</p> <p>13 A. That he attempted to have a conversation 14 with Mr. Erickson and Erik didn't engage in that 15 conversation.</p> <p>16 Q. And what -- did Mr. Franchuk explain what 17 he was attempting to talk to Mr. Erickson about?</p> <p>18 A. Just about the event.</p> <p>19 Q. Okay. And what, if anything, did you say 20 after Mr. Franchuk said that?</p> <p>21 A. Nothing that I can recall.</p> <p>22 Q. Okay. Was there any more to the 23 conversation between you and Mr. Franchuk?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Tell me about that.</p>

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Page 30	Page 32
1 A. He had disdain for the manager and to --	1 Q. How often was it your practice to be at the
2 that he didn't like him personally.	2 Altoona Depot?
3 Q. And did you understand him to be talking	3 A. There's no standard.
4 about Mr. Marvin?	4 Q. How many times have you ever been to the
5 A. I did.	5 Altoona Depot?
6 Q. Okay. And so after Mr. Franchuk said that,	6 A. I would guesstimate under six in two and a
7 what did you say, if anything?	7 half years.
8 A. I don't recall.	8 Q. Okay. So a couple times a year perhaps?
9 Q. Okay. Do you recall any other specifics of	9 A. Perhaps.
10 your conversation with Mr. Franchuk?	10 Q. Okay. And had you ever felt uncomfortable
11 A. I do not.	11 at the Altoona Depot before this conversation with
12 Q. Okay. So now, talking through it, we've	12 Mr. Franchuk?
13 talked about the specifics of what you recall of what	13 A. No.
14 Mr. Franchuk said and what you said to him and what he	14 Q. Have you ever been back to the Altoona
15 said back.	15 Depot since this conversation with Mr. Franchuk?
16 A. Okay.	16 A. I don't recall. I believe I -- I believe
17 Q. Did you make any notes of this conversation	17 that I haven't, but I can't be sure.
18 that you had with Mr. Franchuk?	18 Q. Okay. What -- what, if anything, more did
19 A. No.	19 Mr. Shaffer say other than that you don't need to be
20 Q. Did you speak with anyone at UP about this	20 at the Altoona Depot if you're feeling uncomfortable?
21 conversation with Mr. Franchuk?	21 A. I don't recall anything.
22 A. I did.	22 Q. Okay. Did you have any further
23 Q. Who did you talk to about it?	23 involvement, other than what we've talked about, with
24 A. Josh Shaffer.	24 the Tischer incident?
25 Q. Who is Josh Shaffer?	25 A. What have we talked about? Can you re --
Page 31	Page 33
1 A. He is a current superintendent.	1 Q. What have we talked about? Well, we've
2 Q. And what did you tell Mr. Shaffer about	2 talked about the conversation with Mr. Erickson; we've
3 your conversation with Mr. Franchuk?	3 talked about a conversation with the fitness-for-duty
4 A. That I felt uncomfortable with the	4 nurse, Lisa Tracey; we've talked about a conversation
5 conversation, that I felt as if it was a conversation	5 with an employee named Neil in the summer of 2019; and
6 meant to solicit legal information out of me, and that	6 a follow-up conversation with the current supervisor,
7 I didn't entirely feel comfortable about my future	7 Mr. Josh Shaffer.
8 presence at the Altoona Depot.	8 A. I had a conversation with my boss at the
9 Q. What information did you believe	9 time.
10 Mr. Franchuk was trying to elicit from you?	10 Q. And who was that?
11 A. My involvement in the event. And knowledge	11 A. Jennifer Roberts.
12 of it.	12 Q. And what is her title?
13 Q. Who -- at the beginning of the conversation	13 A. She was our regional manager.
14 with Mr. Franchuk, who approached who? How did the	14 Q. And is she out of the Mason City, Iowa,
15 conversation start?	15 office?
16 A. He asked me what my knowledge of the	16 A. No.
17 situation was.	17 Q. Where is she located?
18 Q. Okay. So he approached you and began a	18 A. Omaha, Nebraska.
19 conversation.	19 Q. And when did you have this conversation
20 A. Correct.	20 with her?
21 Q. And then when you related your discomfort	21 A. Roughly within -- after I had been notified
22 to Mr. Shaffer, what, if anything, did he say in	22 by Erik.
23 response?	23 Q. I'm sorry. I might have missed a word
24 A. I believe that I don't need to be there if	24 there. It was roughly within what of being notified
25 I feel uncomfortable.	25 by Erik?

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		Page 34	Page 36
1	A. A day or so.		
2	Q. Okay. So are we talking August of 2017?		
3	A. I believe so.		
4	Q. And what was the conversation that you had		
5	with Ms. Roberts?		
6	A. Just the information that I had received		
7	and that I had responded to it, and she agreed that		
8	that was the appropriate response and that was it.		
9	Q. Okay. Does that take us to the end of your		
10	involvement in the Tischer incident, such as it was?		
11	A. Yes.		
12	Q. I want to go back for just a moment to this		
13	conversation with Mr. Franchuk in the summer of 2019.		
14	Did he provide you with additional		
15	information that you didn't have in August of 2017		
16	after talking with Mr. Erickson?		
17	A. He provided me with his account, which was		
18	more than I was given initially, yes.		
19	Q. Okay. Did that change your view at all,		
20	listening to Mr. Franchuk, as to what had happened or		
21	the response?		
22	A. Not at all.		
23	Q. Okay. Did you ever have a conversation		
24	with Mr. Marvin about the Tischer incident?		
25	A. No.		
		Page 35	Page 37
1	Q. Did you ever have a subsequent conversation		
2	with Mr. Erickson after the phone call that you had		
3	with him in August of 2017?		
4	A. No.		
5	Q. Okay. I'd like to show you a couple of		
6	documents here. And if I could ask the court reporter		
7	to hand you what's been marked as Exhibit 16.		
8	MR. HAYDEN: Let me just see the Bates		
9	numbers on these.		
10	BY MR. BANKER:		
11	Q. Do you have that in front of you now?		
12	A. I do.		
13	Q. So in the lower right-hand corner of the		
14	document, there's what we call a Bates stamp which has		
15	a UP001046.		
16	Do you see that?		
17	A. I do.		
18	Q. Okay. So I will be using that to help		
19	direct us to particular pages within this document.		
20	I'll represent to you that this is a --		
21	this document is a series of emails that was produced		
22	by UP in this litigation. And perhaps if you want to		
23	take a look through the pages of the exhibit just to		
24	kind of familiarize yourself with what's there, that		
25	might be a good idea.		

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1 communicated with Mr. Erickson by phone?	1 does one of you have more seniority than another?
2 A. No.	2 A. Same level.
3 Q. And the reason I'm wondering is because --	3 Q. On the third page of Exhibit 16, there's an
4 so this email is from you to Mr. Swentik as well as	4 email, and it has a Bates stamp at the bottom of
5 carbon copying a number of people, including	5 UP1048.
6 Mr. Erickson.	6 This appears to be an email from you to
7 Do you see that?	7 TCSU Manager Contacts.
8 A. Yes.	8 Do you see that?
9 Q. And so in this email you say in the first	9 A. Yes.
10 sentence "This employee was transported to the	10 Q. And is -- TCSU, is that an abbreviation for
11 hospital by ambulance for a serious health condition	11 Twin Cities Service Unit?
12 (not work related) Saturday night."	12 A. Yes.
13 Do you see where I read that?	13 Q. So is the addressee of this email, Twin
14 A. I do.	14 Cities -- TCSU Manager Contacts, is that an address
15 Q. And I'm just wondering, if not for	15 you have in your email program to communicate with all
16 Mr. Erickson's phone call, where would you have gotten	16 of the managers of the Twin Cities Service Unit?
17 that information from?	17 A. Yes.
18 A. From Mr. Erickson's phone call. However,	18 Q. What is the purpose of your communication
19 this email chain is typical to the administrative	19 in this email on August 14, 2017, to the Twin Cities
20 functions, and he would have been included on those	20 Service Unit Manager Contacts? Why were you sending
21 communications.	21 this?
22 Q. Okay. So -- but your thought is that the	22 A. As I understood it, the manager had
23 second email that we're talking about on the first	23 recognized signs and symptoms of a stroke and called
24 page of Exhibit 16 is an email after Mr. Erickson had	24 9-1-1 immediately, and I wanted to positively
25 his phone conversation with you.	25 reinforce that and saw it as a good opportunity to do
Page 39	Page 41
1 A. Yes, I would assume so.	1 some health promotion.
2 Q. Okay. Did you have any other source of	2 Q. Okay. And you understood -- what you just
3 information about the incident, other than	3 described about your understanding, that came from
4 Mr. Erickson's phone call, in the August 12 to 14 time	4 Mr. Erickson's phone call?
5 frame?	5 A. Yes.
6 A. Not that I would recall, no.	6 Q. And then if you look in the email, after
7 Q. Okay. On the second page of Exhibit 16,	7 the first paragraph, there's a sentence that begins
8 which has a Bates stamp UP1047, there's an email there	8 "Use the FAST test to check the most common symptoms
9 from Rebecca Patrick to you and Susan Smisek,	9 of a stroke in yourself or someone else."
10 S-m-i-s-e-k, dated August 14, 2017.	10 Do you see where I read that?
11 Who is Rebecca Patrick?	11 A. I do.
12 A. Manager of administration.	12 Q. And the FAST is F-A-S-T. And is that an
13 Q. Was she someone that you had dealt with	13 acronym?
14 before this email?	14 A. Yes.
15 A. Yes.	15 Q. Did you write the text of this email or
16 Q. What does a manager of administration do so	16 were you able to cut and paste it from some other
17 far as you know?	17 resource?
18 A. Administrative work.	18 A. I -- both.
19 Q. Okay.	19 Q. So where did you get this text about the
20 Who is Susan Smisek?	20 FAST protocol?
21 A. She's an occupational health nurse.	21 A. Another resource. I copied and pasted.
22 Q. Is she also in the Twin Cities Service	22 Q. What is that -- what is that resource?
23 Unit?	23 A. I don't recall.
24 A. Yes.	24 Q. Something that you have available as part
25 Q. Are the two of you at the same level or	25 of your job?

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Pages 42..45

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1 A. I -- I assume so.	1 it coming from an UP internal document or is it just
2 Q. Prior to sending this email August 14,	2 coming off the Internet?
3 2017, were you familiar with the FAST test?	3 A. The Internet.
4 A. Yes.	4 Q. Okay. And so in sending this on to the
5 Q. How had you become familiar with it?	5 TCSU Manager Contacts, did you ever receive any
6 A. Through my nursing education.	6 response to this email?
7 Q. Is FAST, F-A-S-T, is that a protocol that	7 A. Not that I recall.
8 is unique to UP or is that a more commonly applicable	8 Q. Okay. And then on the next page, which has
9 protocol?	9 a Bates stamp UP001049, in the last paragraph there
10 A. Commonly applicable.	10 you say "Good job to all involved in recognizing the
11 Q. So you had learned about FAST as part of	11 signs and symptoms of stroke in our recent issue and
12 your nursing training.	12 acting quickly on behalf of the employee."
13 A. Yes.	13 Do you see where I read that?
14 Q. Had you also learned about FAST as part of	14 A. I do.
15 your training at UP?	15 Q. And so when you say that, is the only
16 A. I don't recall.	16 information you have about what happened coming to you
17 Q. Do you know whether UP does any training on	17 from Mr. Erickson's phone call?
18 the FAST protocol for its employees?	18 A. Yes.
19 A. I am not sure of any -- I'm just not sure.	19 Q. Okay. So on the next page of Exhibit 16,
20 Q. Okay. So you were sending this email to	20 which has a Bates stamp UP1050, there's an email from
21 the Twin Cities Service Unit Manager Contacts to	21 Susan Smisek, S-m-i-s-e-k, to the CBSU Managers that
22 include some information about the FAST protocol as a	22 has a copy to her, herself, and also a copy to you.
23 way of doing some positive reinforcement of the	23 Do you see that?
24 protocol?	24 A. Yes.
25 A. What are you referring to as a "protocol"?	25 Q. And it's dated August 14, 2017, at
Page 43	
1 Q. The F-A-S-T that's described in this email.	1 10:09:42 a.m. So it comes after the email that we
2 A. I believe that was --	2 just talked about that went to the TCSU Manager
3 MR. HAYDEN: Lacks foundation that it's a	3 Contacts.
4 Union Pacific protocol.	4 A. Yes.
5 BY MR. BANKER:	5 Q. Do you know -- do you know why Susan Smisek
6 Q. Did you understand my question?	6 was sending -- well, first of all, who are the CBSU
7 A. Can you repeat it?	7 Managers?
8 Q. Sure. So you're sending this email on	8 A. It's Council Bluffs Service Unit managers.
9 August 14, 2017, that lays out the FAST protocol. The	9 Q. And forgive me if I am misremembering, but
10 acronym and then what each letter stands for.	10 Susan Smisek is also an occupational health nurse?
11 Right?	11 A. Yes.
12 A. It's not a protocol. It's an acronym.	12 Q. And so she's forwarding on this information
13 Q. What would you call it then? An acronym?	13 to another service unit that she interacts with?
14 A. An acronym.	14 A. Correct.
15 Q. Is that coming from -- are you cutting and	15 Q. And so she says in this email "Please Read.
16 pasting that from internal UP materials?	16 This weekend, one of our employees/peers experienced a
17 A. No.	17 stroke. It's due to FAST response that he was
18 Q. Where are you getting that from to cut and	18 transported to the hospital right away."
19 paste it from?	19 Do you see that?
20 MR. HAYDEN: Asked and answered. She	20 A. I do.
21 testified she didn't know.	21 Q. And so what I'm wondering is, this FAST
22 You can answer again.	22 acronym, does that do anything to refresh your
23 A. I don't recall.	23 recollection as to whether that's a UP acronym or just
24 BY MR. BANKER:	24 a general nursing acronym?
25 Q. Okay. And I'm just trying to understand is	25 A. It's not specific to UP.

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Page 46	Page 48
1 Q. Okay. On the next page of Exhibit 16, 2 there's an email -- and the Bates stamp on this is 3 UP1052.	1 Is this representative of that? 2 A. Yes. 3 Q. Okay. And you're communicating a lot of 4 the same information about the -- word for word as far 5 as the FAST acronym.
4 It's an email from Mary Ellen Burri, 5 B-u-r-r-i, to a number of people. 6 Who is Mary Ellen Burri?	6 Who gets the MyUP communication that is 7 Exhibit 18? 8 A. I'm not sure exactly, but generally 9 employees on the service unit.
7 A. I do not know. 8 Q. Okay. Let's set Exhibit 16 aside, and I 9 want to show you what's been marked for identification 10 as Exhibit 17. 11 And on this document it has a Bates stamp 12 in the lower right-hand corner UP1089.	10 Q. So it's like an all-employee communication? 11 A. No -- 12 Q. How do they receive that -- 13 MR. HAYDEN: She wanted to finish her 14 answer. 15 Go ahead.
13 Do you see that? 14 A. I do. 15 Q. And it seems to be an email from Susan 16 Smisek, S-m-i-s-e-k, to you, August 14, 2017, where 17 she is responding to your email that we've already 18 talked about to the TCSU Manager Contacts when you're 19 forwarding the FAST acronym, and she says "Awesome 20 information. Good job." 21 Do you see that? 22 A. I do. 23 Q. Did you have any other -- did you have any 24 conversations with Susan Smisek about the Tischer 25 incident other than what's contained in emails here?	16 A. To the people on the service unit. 17 BY MR. BANKER: 18 Q. Okay. So this is you -- Exhibit 18 is you 19 using the MyUP system to make a broad communication to 20 employees of the Twin Cities Service Unit on 21 August 14, 2017. 22 A. Yes. 23 Q. And how do employees on the Twin Cities 24 Service Unit get this? Do they get it as email or do 25 they get it as a login to a web portal or how does the
Page 47	Page 49
1 A. I don't recall. 2 Q. Okay. Let's set that aside and look at 3 what's been marked for identification as Exhibit 18, 4 which has a Bates stamp in the lower right-hand corner 5 UP1022. 6 It might help to compare this to 7 Exhibit 17. As I look at Exhibit 18, it is similar to 8 the emails that we've already looked at communicating 9 the FAST acronym, but when I look at Exhibit 17, the 10 wording at the top is a little bit different. 11 Now the first paragraph says "Great job to 12 the coworkers of the employee who had a stroke this 13 weekend" as opposed to what it says on, for example, 14 Exhibit 17. But looking at this I can't tell who this 15 is sent to. 16 Do you recall another email that you sent 17 on August 14? 18 A. Yeah -- well, it's not another email, 19 but -- 20 Q. What are we looking at in Exhibit 18? 21 A. It's just a different system. 22 Q. Is this an example of the MyUP system? 23 A. Yes. 24 Q. Okay. And so you had described going into 25 the MyUP system and using it for broad communication.	1 communication take place? 2 A. A login through a web portal. 3 Q. And is that something that employees log in 4 to regularly? 5 A. I couldn't speak to that. 6 Q. I'm sorry, what was that? 7 A. I couldn't give you a factual answer on 8 that. 9 Q. Okay, but when you log in to it, does it 10 tell you if you have a new message to read? 11 A. It does. 12 Q. Okay. And so that was the purpose of that 13 communication. 14 Let's look at what's been marked for 15 identification as Exhibit 19. Which has two Bates 16 stamps on it, but I'll use the top one, UP001306. 17 Have you ever seen this document before? 18 A. No. 19 Q. Prior to Mr. Tischer's incident in August 20 of 2017, had you had any experience with employees 21 having strokes while at work? 22 A. Yes. 23 Q. And was that experience while you were 24 working for UP? 25 A. No.

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Page 50		Page 52
1	Q. Where was that experience? Was that at one	1 in mind as to knowledge of policies and procedures for
2	of your previous employers?	2 railroad operations.
3	A. Yes.	3 A. I don't.
4	Q. And how much experience had you had with	4 Q. Okay. And then the second -- or the last
5	employees having strokes at work?	5 part of that says "and training for employees of Union
6	A. I couldn't gauge that.	6 Pacific." And I thought we had talked about that.
7	Q. I'm sorry, I missed the beginning of that.	7 Do you have any additional information
8	A. I don't know how to quantify that.	8 regarding training for employees of Union Pacific
9	Q. Okay. Was it more than five incidents,	9 other than what we've talked about?
10	would you say?	10 A. Remind me what we talked about.
11	A. Yes.	11 Q. I think I had asked you what you knew about
12	Q. More than ten?	12 employee training and you said you didn't know.
13	A. I assume.	13 A. Yeah, I don't know about that department.
14	Q. Okay. And how were you involved in these	14 Q. Okay. So you have nothing to add to what
15	previous employer -- previous stroke incidents while	15 we've already talked about.
16	with another employer?	16 A. I don't.
17	A. I was the nurse.	17 Q. Okay. Let's set that aside, and I have one
18	Q. So you were employed as a caregiver	18 last exhibit that I'd like to ask you some questions
19	providing primary care.	19 about. What's been marked for identification as
20	A. Yes.	20 Exhibit 21.
21	Q. Okay. I want to turn to what's been marked	21 And I'll represent to you that these are a
22	as Exhibit 20. Which I'll represent to you is a	22 series of screen shots that are made off of a DVD that
23	document that gets exchanged by the parties in	23 we received from UP in the course of discovery in this
24	litigation to communicate various kinds of	24 case. And in particular, these screen shots are taken
25	information.	25 from Disk 2 of what on its cover is referred to as a
Page 51		Page 53
1	I want to direct you to page 3 of that	1 "BasicPlus" DVD.
2	document. And in particular, the description	2 My question to you is are you familiar with
3	regarding you in paragraph 13.	3 the BasicPlus DVD?
4	Do you see that there?	4 A. I am.
5	A. I do.	5 Q. Tell me how you are familiar with the
6	Q. It says that "Union Pacific anticipates	6 BasicPlus DVD.
7	that Ms. Carson will have knowledge of the incident."	7 A. I use it as a part of instruction.
8	Have we talked about all of your knowledge	8 Q. What kind of instruction were you doing for
9	of the incident?	9 the Twin Cities Service Unit in the August of 20 -- or
10	A. Yes.	10 in the 2017 time frame?
11	Q. And then it goes on to say "and knowledge	11 A. CPR and basic first aid.
12	of the policies and procedures for railroad	12 Q. Okay. Would you show this BasicPlus DVD to
13	operations, and training for employees of Union	13 the people that you were training on CPR and basic
14	Pacific."	14 first aid?
15	Do you see that there?	15 A. The videos.
16	A. I do.	16 Q. Okay. Was there also classroom instruction
17	Q. Let me break that up into two questions.	17 that you would provide in addition to showing the
18	What knowledge do you have of the policies	18 video?
19	and procedures for railroad operations as it pertains	19 A. Yes.
20	to Mr. Tischer's incident?	20 Q. Would there be a record of the people to
21	A. Very little.	21 whom you had given this training?
22	Q. When you say "very little," what do you	22 A. Yes.
23	have in mind?	23 Q. How often did you offer this training in
24	A. I'm not in operations. I'm in nursing.	24 the Twin Cities Service Unit in 2017?
25	Q. Okay. So you don't have anything specific	25 A. I don't know.

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Pages 54..57

Page 54	Page 56
1 Q. Was it a mandatory training or was it an 2 opt-in training that people could select if they had a 3 particular interest in it?	1 Q. I'm sorry, I didn't catch the first part of 2 that.
4 A. It's optional.	3 A. I believe it's titled the same as the 4 video.
5 Q. Okay. Would that be -- would the 6 attendance at that sort of CPR and first aid training 7 be reflected on an employee's training history?	5 Q. Oh. A BasicPlus book?
8 A. Yes.	6 A. Yes.
9 Q. On page 7 of Exhibit 21 -- I guess I should 10 back up a step.	7 Q. Okay. And so that would give you talking 8 points for presenting to an audience that you were 9 trying to educate.
11 On page 5 of Exhibit 21, there is a segment 12 of this BasicPlus video starting at 53 minutes and 13 48 seconds that pertains to stroke issues.	10 A. Yes.
14 Is that your recollection as well?	11 Q. Like speaker's notes essentially.
15 A. I believe so.	12 A. Supporting what the video is saying.
16 Q. Was stroke training part of your first aid 17 and CPR training that you offered?	13 Q. Okay.
18 A. Not always.	14 Okay. We can set that aside.
19 Q. Not always? How would you decide to offer 20 stroke training or not offer stroke training?	15 MR. BANKER: Those are all the questions I 16 have.
21 A. Based on time, attendance, audience.	17 MR. HAYDEN: Mike, are you going to have 18 any questions?
22 Q. So if there was time and the audience was 23 interested in hearing about it, you would offer stroke 24 training?	19 MR. COHEN: Yeah, just a few.
25 A. Correct.	20 MR. HAYDEN: Give me a minute. I need to 21 take a restroom break.
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1 Q. Okay. And if not, you wouldn't?	22 THE VIDEOGRAPHER: Off the record at 23 11:40 a.m.
2 A. There's any number of factors, I guess, as 3 to why --	24 (Recess taken.)
4 Q. Okay.	25 THE VIDEOGRAPHER: On the record at
5 A. -- not.	
6 Q. And then on page 7 of Exhibit 21, there's a 7 reference to this FAST acronym that we've talked about 8 in the context of the emails that you sent after 9 Mr. Tischer's incident.	
10 And then if you go to page 8 and page 9, it 11 goes through what the letters stand for in that 12 acronym.	
13 Is that correct?	
14 A. Yes.	
15 Q. When you would address stroke issues as 16 part of your first aid or CPR training, would you talk 17 about anything other than what was in the video?	
18 A. No.	
19 Q. Did you have any notes or outline that you 20 would use to guide you through talking about stroke 21 issues?	
22 A. There's a book.	
23 Q. What is the book called?	
24 A. I believe it's titled the same as the 25 video.	
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	1 11:45 a.m.
	2 EXAMINATION
	3 BY MR. COHEN:
	4 Q. Good afternoon, Ms. Carson, my name is 5 Michael Cohen, and as you might have heard earlier, I 6 represent Professional Transportation, Incorporated, 7 in this matter.
	8 Are you familiar with Professional 9 Transportation, Incorporated?
	10 A. I know of them.
	11 Q. Okay. And how do you know of them?
	12 A. I see them around.
	13 Q. All right. Are you generally aware of the 14 relationship between Professional Transportation, 15 Incorporated, and Union Pacific?
	16 A. Yes.
	17 Q. Okay. And I should have asked at the 18 outset, are you -- can you hear me?
	19 A. Yes.
	20 Q. Okay. In relation to the incident 21 involving Mr. Tischer that we have been discussing 22 today, do you have any criticism whatsoever of 23 Professional Transportation, Incorporated?
	24 A. No.
	25 Q. Okay. You talked a little bit about the

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<p>1 BasicPlus training materials. It's my understanding 2 from your testimony that from time to time you train 3 Union Pacific employees in those BasicPlus materials; 4 is that correct?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. And my understanding from your 7 testimony is that the employees can either decide to 8 be trained in those materials or decide not to be 9 trained in those materials; is that correct?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. To put it another way, whether they 12 wish to be trained is completely voluntarily; is that 13 correct?</p> <p>14 A. Correct.</p> <p>15 Q. All right. How often generally do you 16 train employees in the BasicPlus materials?</p> <p>17 A. Say that again.</p> <p>18 Q. I'm sorry, I missed that.</p> <p>19 A. Can you say that again?</p> <p>20 Q. Sure. How often generally do you have 21 occasion to train employees in the BasicPlus 22 materials? Is it once a year? Once every two years?</p> <p>23 A. Well, can you define "employees"?</p> <p>24 Q. Any employees of Union Pacific.</p> <p>25 A. Well, four or five times a year.</p>	<p>1 if that, that that would have been the case.</p> <p>2 Q. Okay. I'm sorry, it's a little difficult 3 for me to hear you.</p> <p>4 Did you say there's 15 courses?</p> <p>5 A. If I was to guesstimate the number of 6 courses that I have put on in my length of UP 7 employment, I would guesstimate probably 15, and I 8 would say maybe one of those times out of those 15 9 would have been a condition that -- where we may have 10 run out of time for whatever reason.</p> <p>11 Q. Okay. And how are the Union Pacific 12 employees at the Altoona yards notified that you're 13 going to be performing that?</p> <p>14 A. I put out a schedule every month.</p> <p>15 Q. All right. And then are they able to sign 16 up or can they just show up or is there some other way 17 that they go about receiving the training?</p> <p>18 A. My contact information is on the schedule, 19 and they're free to reach out to me and inquire about 20 signing up.</p> <p>21 Q. All right. And how do they reach out to 22 you? Is it via phone? Via email? How do they go 23 about reaching out to you?</p> <p>24 A. Multiple ways.</p> <p>25 Q. I'm sorry, I didn't hear you.</p>
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<p>1 Q. Okay. And where does that training take 2 place?</p> <p>3 A. It varies.</p> <p>4 Q. All right. How often do you train Union 5 employees, or have you had occasion to train Union 6 employees, Union Pacific employees, in or around the 7 Altoona Union Pacific yards?</p> <p>8 A. How far are you considering -- I've been up 9 in the area, I guess, offering it in the area multiple 10 times.</p> <p>11 Q. Do you offer it once a year? Do you offer 12 it less than once a year? More than once a year?</p> <p>13 A. More than once a year.</p> <p>14 Q. Okay. And when you do train Union Pacific 15 employees in the Altoona yards on these BasicPlus 16 materials, what dictates what portions of the 17 BasicPlus materials you train on?</p> <p>18 A. Generally we follow the -- the course as 19 it's laid out in the book and the DVD.</p> <p>20 Q. Okay. And you mentioned before that 21 sometimes you don't have enough time to train in all 22 these materials; is that correct?</p> <p>23 A. I wouldn't say that that's the norm at all, 24 but it's potentially possible. Maybe once out of 25 probably, oh -- maybe once out of probably 15 courses,</p>	<p>1 A. Multiple ways.</p> <p>2 Q. And is there a list of attendance that's 3 kept regarding who is receiving the training?</p> <p>4 A. If the nurse enters it correctly, yes.</p> <p>5 Q. And I apologize again, I'm sorry, I didn't 6 hear you.</p> <p>7 A. There would be a record.</p> <p>8 Q. Okay. All right. And is there a record of 9 what training was given in a particular session?</p> <p>10 A. It doesn't define it that way.</p> <p>11 Q. Okay. What do you do -- you mentioned that 12 you show the video, or parts of the video, during the 13 training; is that correct?</p> <p>14 A. I did say that, yeah.</p> <p>15 Q. Okay. And do you hand out any written 16 materials?</p> <p>17 A. Yes.</p> <p>18 Q. What's that?</p> <p>19 A. A book.</p> <p>20 Q. All right. And what book do you hand out?</p> <p>21 A. The basic CPR/first aid book.</p> <p>22 MR. COHEN: Okay. I don't have any further 23 questions.</p> <p>24 MR. HAYDEN: Thanks. I just have a few of 25 my own.</p>

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1 EXAMINATION	1 A. Yes.
2 BY MR. HAYDEN:	2 Q. And lastly, you mentioned before -- I was a
3 Q. When you testified about the conversation	3 bit confused when you were discussing your knowledge
4 you had with somebody named Neil back in the summer of	4 of any prior strokes that occurred on your watch as an
5 this year, 2019, in the Altoona Yard -- is that right?	5 employee.
6 Do you remember that?	6 Do you remember that line of questioning?
7 A. Yes.	7 A. I do.
8 Q. What was the purpose of you being there	8 Q. I'm just going to break it down a little
9 that day at the Altoona terminal?	9 further.
10 A. We call it Summer Spike. It's general	10 During the time you've been at Union
11 health promotion.	11 Pacific, other than Mr. Tischer, have you become aware
12 Q. What types of things do you do in a general	12 of any stroke -- any employee suffering a stroke while
13 health promotion day at a particular terminal?	13 on duty?
14 A. Blood pressures, health screens, talk about	14 A. Not that I can recall.
15 heat stress.	15 Q. How about systemwide. Would you be made
16 Q. When Neil confronted you, was he intending	16 aware of those kinds of incidents if they occurred in
17 to get a blood pressure screening from you or was he	17 the Western Region or Southern Region?
18 just intending to confront you with what you	18 A. I would not be.
19 described?	19 Q. Certainly as it relates to the Northern
20 A. He was intending to confront me with what I	20 Region, the then Northern Region, you would say you
21 had described.	21 never recall any employee, other than Mr. Tischer,
22 Q. You relayed the conversation -- what you	22 suffering a stroke while on duty?
23 recall of the conversation that you had with him. And	23 A. Correct.
24 at any time during the conversation, did Mr. Franchuk	24 Q. And the Northern Region includes the
25 indicate to you that he had observed signs and	25 headquarters building in Omaha where many, many people
1 symptoms of a stroke in Mr. Tischer that day?	1 work; is that correct?
2 A. No. He said it was very general and he was	2 A. Correct.
3 "off."	3 Q. In addition to all the terminals that are
4 Q. And so none of the signs and symptoms that	4 across the Northern Region.
5 you set forth in your various emails that we discussed	5 A. Yes.
6 earlier in this deposition were those that were	6 Q. Then -- the job just prior to your
7 identified by Mr. Franchuk, according to him, when he	7 employment with the railroad was with A10 Clinical
8 spoke to you this summer; is that correct?	8 Services; is that correct?
9 A. They were not.	9 A. Yes.
10 Q. Did you come to understand that it was	10 Q. During your time of three years or so with
11 Mr. Marvin who called 9-1-1 after he identified the	11 A10 Clinical Services, did you ever observe -- or were
12 signs and symptoms of a stroke in Mr. Tischer on that	12 you ever aware of anyone suffering a -- an employee of
13 day in question?	13 that company suffering a stroke?
14 A. I did.	14 A. No.
15 Q. And did he act appropriately in your view?	15 Q. When you were an RN at the county hospital
16 A. I believe he did.	16 when you were the ER charge nurse for four years, is
17 Q. In that he called 9-1-1 immediately after	17 that when you recall people suffering strokes?
18 observing signs and symptoms of a stroke?	18 A. Yes.
19 A. Correct.	19 Q. Who were inpatient --
20 Q. He didn't call you, for example.	20 A. Patients.
21 A. Correct.	21 Q. -- inpatients for some other injury or
22 Q. Do you happen to know one way or the other	22 disease that suffered strokes while under care?
23 whether Mr. Marvin was trained in the BasicPlus	23 A. Yes.
24 training course or, for that matter, on the signs and	24 Q. So too with Osage Rehab in your time there?
25 symptoms of a stroke?	25 Do you remember any stroke victims during your time as

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1 the director of nursing or floor RN at the Osage
 2 Rehab?

3 **A. Patients.**

4 Q. Patients again? Not employees.

5 **A. Correct.**

6 MR. HAYDEN: Thank you, ma'am.

7 MR. BANKER: I don't have any further
 8 questions.

9 MR. COHEN: No further questions.

10 MR. HAYDEN: Okay. Well, thank you,
 11 everybody. We'll give the exhibits back to the court
 12 reporter and we are all done.

13 THE VIDEOGRAPHER: Off the record ending
 14 the deposition at 11:59 a.m.

15 (Deposition concluded at 11:59 a.m.,
 16 September 24, 2019.)

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1 C E R T I F I C A T E

2 I, the undersigned, a Certified Shorthand
 3 Reporter of the State of Iowa, do hereby certify that
 4 there came before me at the time, date, and place
 5 hereinbefore indicated, the witness named on the
 6 caption sheet hereof, who was by me duly sworn to
 7 testify to the truth of said witness's knowledge, that
 8 the witness was thereupon examined under oath, the
 9 examination taken down by me in shorthand and later
 10 reduced to a transcript through the use of a
 11 computer-aided transcript device under my supervision
 12 and direction, and that the deposition is a true
 13 record of the testimony given and of all objections
 14 interposed.

15 I further certify that I am neither
 16 attorney or counsel for, nor related to or employed by
 17 any of the parties to the action in which this
 18 deposition is taken, and further that I am not a
 19 relative or employee of any attorney or counsel
 20 employed by the parties hereto, or financially
 21 interested in the action.

22 Dated this 1st day of October, 2019.

23
 24 *Melissa A. Burns*

25 CERTIFIED SHORTHAND REPORTER